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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,799	01/21/2004	Andrew Stronach	311.005US1	2309

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EXAMINER

WEBER, CHRISTOPHER STEVEN

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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06/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary

Application No.

10/761,799

Applicant(s)

STRONACH ET AL.

Examiner

Christopher S. Weber

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/19/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: "a user interface to capture *a an* identification" contains an error. Appropriate correction is required.
2. Claim 17 is objected to because of the following informalities: the acronym "API" is used. This should be written out. Appropriate correction is required.
3. Claims 44-46 are objected to because of the following informalities: "race location and race location" is redundant. Office will examine as if it were written "race location and race event" as it is presented in the independent claim 39. Appropriate correction is required.
4. Claim 59 is objected to because of the following informalities: "pf". Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 1 recites the limitation "the user" in Line 19 and "form" in Line 23. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Holch et al. US Patent 5,800,269.

9. Regarding at least claim 1, Holch discloses a means to set up player accounts for gaming activities; a display, Fig 4 Items 414 & 420; a user interface, Fig 4 Items 418 & 424; reader to accept application information. Central computer and operator terminal; a processor, Fig 4 Item 400, processing identification information, inputs and sets up an account, Col 5 Line 62 – Col 6 Line 17.

10. Regarding at least claims 2 and 3, Holch discloses a card dispenser and reader, Fig 2 and Fig 4.

11. Regarding at least claims 4 and 5, Holch discloses connecting to a database with gaming credit information to validate account and gambling information, confirmation of balance can be achieved at service stations or game as disclosed above.

12. Claims 6-16, 20-23, 39, 47-53 and 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Brenner et al. US Patent 5,830,068.

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13. Regarding at least claim 6 and 9-12, 16, 20, 39, 47, 50-52 Brenner discloses a display that presents race information, Fig 1 item 126; user interface that allows user to wager on processor selected race event, Col 9 Lines 25-35, the user is automatically directed to a certain race chosen by the processor based on availability of the track and next post time the user can then choose to wager on it; a card reader and credit receiver, Fig 2 Item 169; credit can be added to the account via connection with account, Abs; a manual wager value selector, Fig 12; displays race contestant information, Fig 15; requires user identification, Col 8 Lines 41-56; a pari-mutuel wagering system at the race location or off-track;

14. Regarding at least claim 7, Brenner discloses that additional funding/currency can be added to a player's smart card and dispensed.

15. Regarding at least claim 8, Brenner discloses that the next post time is the selected race, for instance if Pimlico is selected the automatically chosen/highlighted race is the next race, Col 9 Lines 35-47.

16. Regarding at least claims 13 and 14, Brenner discloses a risk reward profile in the form of betting odds that the player can choose which odds/profile they choose, odds are considered handicap data.

17. Regarding at least claim 15, Brenner discloses using icons and color to distinguish contestant and wager information on the user interface, Fig 15 and Col 9 Lines 37 – 39.

18. Regarding at least claims 21-23, Brenner discloses the use displaying winning information along with user information on a winners board.

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19. Regarding at least claims 48, 49, and 53, Brenner discloses the use of track codes, Fig 12 Item 220.

20. Regarding at least claim 59, Brenner discloses using icons to allow the user to select wager and bet type.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

21. Claim 65 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Affel, Jr. et al. US Patent 3,505,646. Affel discloses that each track, race and bet type have different pools, Col 1 Line 64 – Col 2 Line16.

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

24. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. as applied to claims 6, 9, and 12 above, and further in view of Hoffman et al., US Patent 5,815,678. Brennan substantially discloses the invention as claimed but fails to explicitly disclose the use of application programming interface in order to facilitate communications with race providing facilities. Hoffman discloses the use of API's to facilitate this type of communication. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine API in the Brenner invention to facilitate data communication as taught in Brenner at Col 19 Lines 35-52.

25. Claims 27-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. in view of Thomas et al. US Patent 6,190,255. Brenner substantially discloses the invention as claimed but fails to specifically disclose the bonus structure. Thomas discloses a type of bonus structure that is notoriously well known in the wagering art that includes bonus picks based on predetermined event, random picks, funding of bonus picks, issuing of bonus picks and awards, Abs, Col 1 Lines 40-45, Col 9 Line 58 – Col 6 Line 24. It would have been obvious to one of ordinary skill in the art at the time of the invention to offer a bonus pick feature on the Brenner invention in order to enhance the level of player excitement as taught by Thomas at Col 2 Lines 1-5.

26. Claims 40-46 and 54-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. Brenner substantially discloses the invention as claimed, including all handicapping and choosing functions, but discloses some of these

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functions in a manual format. *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art. The Brenner patent accomplishes the same task as the present invention.

27. Claims 24-26 and 59-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. as applied to claim 9 above. Brenner substantially discloses the invention as disclosed but fails to explicitly disclose the quick pick function. Examiner takes OFFICIAL NOTICE that it is well known in sports betting to adjust the odds in order to even out betting and in all other gambling operations such as slots table games etc that there is a predetermined payout rate, effectively distributing losers in sufficient proportion to offset winners to achieve the desired rate of return. It would have been obvious to use these principles in horse racing to achieve similar desired results.

28. Claims 66-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Affel as applied to claim 65 above. The idea of minimum wager amounts, flat takeout rate and single simulcast, equivalent to only one race, are well known in the gambling and would therefore be obvious to modify the Affel patent in order to have better control of the financial aspects of the pari-mutuel system.

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29. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

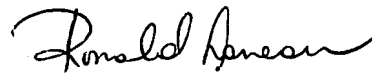
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Weber whose telephone number is 571-272-3064. The examiner can normally be reached on Monday - Friday 7am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CSW


RONALD LANEAU
PRIMARY EXAMINER

6/8/07